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GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Balance-of-Payments Restrictions

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CONSULTATION UNDER ARTICLE XVIII:12(b) WITH INDIA

Statement Submitted by India under the Simplified Procedures for Consultations[1]

I. Legal and administrative basis of the import restrictions

The Imports and Exports (Control) Act, 1947 empowers the Central Government to prohibit, restrict or otherwise control imports. In exercise of the powers conferred by this Act, the Import (Control) Order, 1955 has been issued. Schedule I to the said Order contains the list of articles of which import is controlled. The import of such items is prohibited except (i) under and in accordance with a licence or a Customs Clearance Permit issued under the said Order, or (ii) if it is covered by an Open General Licence (subject to such conditions as may be stipulated), or (iii) they are covered by the Savings Clause II of the Imports (Control) Order. Import of gold, silver, currency and currency notes, banknotes and coins is controlled by the Reserve Bank of India, under the Foreign Exchange Regulations Act. Imports from the Union of South Africa and South West Africa are prohibited.

The annual import policy in respect of various items is brought into effect by publication in the Gazette of India at the beginning of each licensing year (April to March). Any amendment to this policy which becomes necessary in the course of the year is notified by means of public notices issued by the chief controller of imports and exports, from time to time.

The Imports (Control) Order, 1955 contains provisions for collection of fees by the licensing authorities on applications for import licences. It also specifies the conditions governing the grant of licences, the transfer of licences and amendment, suspension or cancellation of licences.

The handbook of Import-Export Procedures is issued as a supplement to the import policy and contains relevant procedures and other details.

Import control is administered by the Import-Export Control Organisation of the Ministry of Commerce headed by the chief controller of imports and exports. Besides the main office at New Delhi, the organisation has regional offices in different parts of the country.

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[1] L/3772/Rev.1

II. Methods used in restricting imports

Restrictions on import are administered through import licensing. Items, import of which is allowed under Open General Licence are notified separately and these are also included in the actual Import Policy Book. The categories of imports exempted from import control restrictions are indicated in the Import (Control) Order, 1955. In the case of residual categories, import licences or Customs Clearance Permits are granted subject to the policy and procedure notified in the Import Policy and the Hand Book of Import-Export Procedures.

III. Treatment of imports from different sources including information on the use of bilateral agreements

Licences for imports including Open General Licences are valid for import from any country having trade relations with India. The restrictions applied on balance-of-payments grounds are on non-discriminatory basis.

The Government of India has also signed trade agreements with a number of foreign countries. These agreements do not involve specific commitments on import of any goods, but merely indicate the commodities the import or export of which the partner countries intend to facilitate and do not limit the imports either in terms of items or value. The provisions of the Trade Protocol concluded annually within the framework of these bilateral agreements are thus of indicative nature, and not a binding commitment. The Government do not direct the importers to buy from any particular source. These agreements also generally provide that exchange of goods under the agreements are subject to the goods being competitive in relation to the world market prices in respect of quality and other terms and conditions of delivery.

In addition to trade agreements, special payments and trade arrangements have been concluded between India and certain countries which provide for payments for all commercial and non-commercial transactions in non-convertible Indian rupees through a central clearing account. The underlined principle in such bilateral arrangements is the balanced growth of trade with mutuality of benefits.

All these agreements, special payments and trade arrangements are based on Most Favoured Nation (MFN) treatment providing non-discriminatory treatment in all matters relating to trade. It has also been convincingly proved that expansion of these bilateral arrangements has not been at the expense of other countries with whom India conducts her trade on multilateral basis.

IV. Commodities, or group of commodities, affected by the various forms of import restrictions

Imports of raw materials, components, and spare parts for industry are classified into three categories: (i) Banned, (ii) Restricted, and (iii) Canalised. All items not included in these lists are freely available under Open General Licence (OGL). Licences to industry are issued automatically on the basis of annual requirements as determined by past consumption. An actual user (industrial) holding an automatic licence may import, upto a limit of 10% of the value of the licence, such "consumable" (i.e. items required for production but not part of the final product) as are needed for the manufacturing process. The value of a single "consumable" item imported under this facility may not exceed Rs.50,000/- . The actual User (Industrial) may also import, within the value of the licence, banned items upto a value of Rs. 50,000/- for each item, provided that the total of all items imported does not exceed 10% of the value ofthe licence. Supplementary licences may be obtained in case of need. All licences to industry are issued against free foreign exchange. There are special procedures applicable to imports of capital goods. Specified capital goods are banned while other listed goods may be imported under Open General Licence, subject to certain conditions. For 14 industries and projects capital goods may be imported on the basis of global tenders irrespective of whether the goods are manufactured in India or not. Registered exporters are permitted to obtain import replenishment (REP) licences which are valid for importation of banned items necessary for the production of the particular export products. In addition, REP licences may be utilized for direct imports of canalised items to the extent the licence permits, and also for imports of capital goods, subject to necessary clearances. The licences are issued to merchant-exporters, manufacturer-exporters, and export houses and these are freely transferabl Small scale units are given especially liberal treatment in respect of import licences, and consortia of small scale industries may form export houses. Non-industrial actual users, such as research and development laboratories, scientific or higher educational institutions, and hospitals are eligible to import requirements of technical and professional equipment, raw materials, components, spare parts, or other items (but not consumer goods) on Open General Licence.

V. State-trading or government monopoly

Essential commodities like food grains, edible oils, fertilizers, cement and certain raw materials are imported directly by the public sector agencies such as State Trading Corporation of India, Minerals and Metals Trading Corporation of India, etc. The concerned agencies import these commodities under Open General Licence, on the basis of the foreign exchange made

available in their favour, for this purpose. The policy for canalisation of certain items through the designated public sector agencies has been evolved with a view to effecting economical imports for the Actual Users, particularly small users, securing most favourable terms of payment and improving the terms of trade. The list of items canalised for import through designated public sector agencies is given in Appendices 8 & 9 of the Import Policy, 1979-80. The policy of canalisation of import of the items is reviewed from time to time and if it is observed that the objectives of canalisation has not been achieved in the case of any item, its import is de-canalised.

Purchase by the public sector agencies are guided by normal commercial considerations and are entirely non-discriminatory in nature. State Trading and Government monopoly are not used as measures to restrict imports.

VI. Measures taken since the last consultations in relaxing or otherwise modifying import restrictions

The Government of India has been progressively liberalising its import licensing policy, in accordance with the growing needs of the development plans and policies. For the first time, a major attempt was made for liberalising import policy during 1976-77. Following this, the import policy and procedure has been made progressively liberalised over the years. The important changes made in the Import Policy for 1979-80 included the following:

(1) All items of raw materials, components and spares which are not specifically included in the Banned, Restricted or Canalised list are allowed to be imported by Actual User (Industrial) under Open General Licence. In the case of Actual Users (Non-Industrial), the facility has been provided for import of permissible spares under Open General Licence.

(2) Research and Development units, scientific or research laboratories, institutions of higher education and hospital, recognized by the Central or State Government can import under Open General Licence, their requirements of raw materials, consumables, components, machinery, equipment, instruments, accessories and spares.

(3) A number of items of capital goods can be imported by the Actual Users under Open General Licence.

(4) Import of large number of items such as (i) educational scientific and technical books and journals, news magazines, (ii) instruments and equipment required by blind, (iii) life saving equipment, (iv) life saving drugs, (v) drugs for Ayurvedic and Unani medicines, (vi) homoeopathic medicines, (vii) dry fruits, (viii) spices etc. have been allowed to be imported under Open General Licence by all persons for stocks and sale. These are given in Appendix 10 of the Import Policy, 1979-80.

(5) The provision for grant of automatic licences for raw materials and components based on past consumption has been retained. Actual users are also granted supplementary licences based on the recommendation of the Sponsoring Authority for meeting their balance requirement of raw materials and components.

(6) In the case of capital goods which are not covered by the Open General Licence, applications for grant of import licences are considered on liberal basis.

(7) A number of procedural simplifications has been introduced in the Policy for expeditious grant of import licences.

1980-81

The main feature of the Import Policy for 1980/81 is the continuation of the basic thrust towards liberalization introduced in earlier years.

The important changes made in the Import Policy for 1980/81 are indicated below:

(1) The facility provided to the Actual Users (Industrial) for import of raw materials and components under Open General Licence has been further liberalized. Such Actual Users can now import consumable items also under Open General Licence. Under this facility, imports of such items are allowed under OGL as are not listed in the Banned, Restricted or Canalized list.

(2) The system of granting automatic licence to the Actual Users (Industrial) on the basis of past consumption of raw materials, components and consumables continues to be operative.

(3) Small scale Actual Users whose entitlement does not exceed Rs 50,000 can claim licence on repeat basis, without reference to past consumption.

(4) In the case of 'Loan Licensees' approved under the Drugs and Cosmetics Act 1940, policy for procurement of imported inputs has been liberalised and they have been treated on par with Actual Users (Industrial), in this regard.

(5) Actual Users (Industrial) continue to enjoy the facility of obtaining supplementary licences, on the recommendation of their ponsoring authorities, if the quantum of imports permitted to them under automatic licences is not sufficient to meet the requirement.

(6) Actual Users (Industrial) continue to get the facility for import of banned items upto 10% of the value of their automatic licences, provided the value of a single item so imported does not exceed Rs. 50,000. Import of banned items can also be allowed in their favour against supplementary licences granted to them on the recommendation of their sponsoring authorities.

(7) The policy for allowing import of permissible spares under Open General Licence by Actual Users continues to be operative. In the case of non-permissible spares, licences are granted based on the value of the machinery installed. The policy for grant of licences for import of spares required for fulfilling warranty obligation or rendering after sale services has been further liberalised. The value of such licence will be determined at 1 per cent of the sale value of production during the last 3 years, as against 0.5% hitherto.

(8) A provision has been made to grant licences to the Indian agents of the foreign machinery/instrument manufacturers to enable them to import spares for stock and sale. The value of such licences will be determined at 2% of the C.I.F. value of machinery/instruments imported by the agents themselves or imported through them during the previous 5 years. Against such licences, import of each item of banned types of spares can be made upto 50,000/- and import of other items of spares will be permitted upto Rs 5 lakhs per item.

(9) Provision has also been made for grant of licences for import of aircraft spares to the stockists, for stock and sale purposes. The value limit for import of spares under OGL by owners of imported vehicles and tractors has also been raised from Rs. 2,500 to Rs. 5,000 per vehicle per year.

(10) Research and development units, scientific or research laboratories, institutions of higher education and hospitals recognised by the Central or a State Government can import under Open General Licence, the requirements of raw materials, components, consumables, machinery, equipment, instruments, accessories and spares.

(11) The facility for import of a number of items of Capital Goods under OGL by Actual Users continues to be operative. A number of machineryitems required by the electronic industries has been included in the list of OGL items for Actual Users. Some of the items of Capital Goods have been taken out from the Banned List as their indigenous production could not meet full demand. These items include crimping machines, texturising machine and draw texturising machines of speed above 600 meters per minute, calorimeters, blow room machinery, draw frames, speed frames and certain other items of textile machinery. The liberal provision for import of Capital Goods against licences granted to the Registered Exporters, continues to be operative.

(12) The facility for import of a large number of items under OGL, for stock and sale purposes, continues to be operative. The following additional items have also been permitted under OGL for stock and sale purposes :-

(i) Copper scrap
(ii) Lead scrap
(iii) Photographic films (colour)
(iv) Photographic paper (colour)
(v) Cuprammonium filament yarn
(vi) Records for learning of languages.

(13) Registered Exporters continue to have the facility of getting import replenishment licences against export, for the import of relevant banned or canalised items and packing materials. Such REP licences are freely transferrable, unless they are held by Export Houses and used for import of OGL items for Actual Users. Direct import of canalised items can be made against such REP licences.

(14) In order to strengthen export-oriented units and make them more viable and economic in production, the import policy for 1980-81 provides greater flexibility to the manufacturer exporters in the utilisation of REP licences, if they want to import the materials for their own use and not for sale. They will be allowed to import against their own REP licences, not only the items appearing in the shopping list, but any other items of raw materials, components, consumables or packing materials required

by them for use in their own factories. In order to avoid the possibility of any undue imports of banned items, a monetary limit has, however, been imposed on the import of such items. Manufacturer-exporters willing to make use of this facility will be subject to "Actual User" condition and import licences in their case will not be transferable.

(15) The scheme of advance licences with benefit of customs duty exemption has been made more comprehensive, with further improvements so as to make the scheme more responsive to the needs of exporters.

(16) Export Houses will continue to play an important role in export marketing and development. In the interest of promoting exports through this channel, the following changes have been introduced in the import policy applicable to them :-

(a) For the purpose of granting eligibility certificates or their renewal, the minimum export performance would be taken as the annual average of three years comprising the base period, or the exports in the immediately preceding year, provided the applicant does not have 'nil' exports in any of the prescribed three years of the base period.

(b) In the case of small scale units, the prescribed growth rate of 20% for the purpose of granting renewal of Export House Certificate has been reduced to 10% in cases where the level of exports of the Export House has exceeded Rs.1 crore in value.

(c) REP licences issued to Export Houses on their own exports will be valid for import of raw materials, components, and spares (other than those appearing in Appendix 5 of the Import Policy) as are open to Actual Users under Open General Licence, without their value being debited to the REP licence until the value of such imports does not exceed the value of the REP licence.

(d) Additional licences to Export Houses against exports of select products made in the large scale sector, would be allowed at 7½% of the value of such exports instead of 5% hitherto.

(e) The itemwise limit of Rs 2 lakhs for import of restricted items by Export Houses against additional licences has been raised to Rs 5 lakhs.

(f) The upper limit of foreign exchange to be released to Export Houses for promotional activities in relation to their export performance has been raised from Rs5 lakhs to Rs7.5 lakhs.

VII. Effects of import restrictions/liberalization on trade

India has been facing the problem of widening trade deficits since 1977-78 mainly due to sharply growing imports and slow-down in export growth. The trade deficit which stood at Rs 6,210 million in 1977-78 increased to Rs 10,781 million in 1978-79. On the basis of the latest data available, the deficit in the nine months April-December of 1979-80, increased to Rs 12,563 million. On all indications, the full year deficit in 1979-80 was expected to exceed Rs 20,000 million.

India's Balance of Trade
(Rs million)

Years	Imports	Exports	Balance of trade deficit
1977/78	60,253	54,043	- 6,210
1978/79	68,032	57,251	-10,781
1979/80*	82,000	61,500	-20,500

In spite of this crisis of rising adverse trade balance, India continued its efforts towards liberalization of imports.

The full impact of 1979-80 liberalization has yet to be assessed. However, it can be firmly stated that import liberalization in the last two years since 1977-78 has already resulted in a substantial increase in our imports. The aggregate imports which were Rs 60,253 million in 1977-78 increased to Rs 68,032 million in 1978-79, i.e. by about 13 per cent. During the first nine months (April-December, 1979-80), imports amounted to Rs 56,287 million as compared to Rs 46,940 million in the corresponding period in the previous year. On present indications, the imports during the full year, 1979-80 were expected to reach Rs 82,000 million, indicating a further growth of over 28 per cent during the year.

The value of import licences issued has since gone up from Rs 59,210 million in 1976-77 to Rs 74,060 million in 1977-78, showing an increase of over 25 per cent. In 1978-79 the value of import licences issued amounted to Rs 40,040 million only, as a large number of items were placed under OGL due to liberalized import policy. The value of import licences issued during the first eleven months, April-February 1979-80 amounted to Rs 38,100 million compared to Rs 34,220 million in the corresponding period last year, showing a growth of over 11 per cent during this period. The full year value of import licences in 1979-80 would even be still higher.

The number of import licences issued also declined from 143,078 in 1977-78 to 64,502 in 1978-79 and further to 51,256 during the eleven months, April-February 1979-80. This reduction confirms the increasing trend towards import liberalization.

Besides, a significant diversification in the composition of imports was also achieved as reflected in the growth of non-cereal, non-mineral fuel imports from Rs 57,478 million in 1977-78 to Rs 65,486 million in 1978-79, the bulk of which are industrial imports, showing a rise of over 14 per cent. Details of imports for 1979-80 are not yet available. However, it appears

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*Estimates.

that the substantial increase in imports in 1979-80 is contributed by the POL imports consequent on sharp increase in POL prices.

VIII. General Policy in the use of restrictions for balance-of-payments reasons

The general policy in the use of restrictions for balance-of-payments reasons is to give priority to imports required for the development of the economy and for meeting essential consumer needs. Preference is, therefore, given to imports of capital goods, industrial raw-materials and articles of mass consumption. Low priority is given to luxury consumer goods.

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